

Before the Public Utilities Commission  
of the State of Colorado

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Delta-Montrose Electric	)	
Association,	)	
	)	
Complainant,	)	
	)	
V.	)	
	)	Proceeding No. 18F-0866E
Tri-State Generation And	)	
Transmission Association, Inc.,	)	
	)	
Respondent.	)	
	)	

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**Amended Joint Petition to Intervene**

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Come Now the Joint Movants, Southeast Colorado Power Association, Inc. (SECPA)(CO), High West Energy (WY), Wyrulec Company (WY), Big Horn Rural Electrical Company (WY), Carbon Power & Light (WY), Garland Light & Power (WY), K.C. Electric Association (CO), Otero County Electric Cooperative, Inc. (NM), Central New Mexico Cooperative, Inc (NM), Mora-San Miguel Electric Cooperative, Inc. (NM), Continental Divide Electric Cooperative (NM), Socorro Electric Cooperative (NM), Sierra Electric Cooperative, Inc. (NM), Gunnison County Electric Association, Inc. (CO), Southwestern Electric Cooperative (NM), Columbus Electric Cooperative (NM), Northern Rio Arriba Electric Cooperative, Inc. (NM), Wheatland Rural Electric Association (WY), Springer Electric Cooperative, Inc. (NM), High Plains Power, Inc. (WY), Niobrara Electric Association, Inc. (WY) ,San Isabel Electric Association, Inc. (CO), and Morgan County Rural

Electric Association (CO) [**“The Joint Cooperative Movants”**] by and through Colorado counsel, Petersen & Fonda, LLC and pursuant to Rules 1401(a) and 1401(c) of the Commission Rules of Practice and Procedure, seek leave to intervene as a party in the above-captioned proceeding. This amended petition removes San Miguel Power Association, Inc. as a joint Movant. In support of this petition, the Movants respectfully asks the Commission to consider the following:

### **Grounds for Intervention**

1. The Joint Cooperative Movants, acting as a singular party for purposes of this proceeding, are rural distribution cooperatives from Colorado, New Mexico and Wyoming. Moreover, each are member-systems of Tri-State Generation and Transmission Association (Tri-State).
2. On December 6, 2018, Delta-Montrose Electric Association (DMEA) caused to be filed a Complaint against Tri-State seeking the Commission’s intervention on a contractual dispute involving an exit fee for DMEA to withdraw from membership in Tri-State. The Commission issued notice of DMEA’s Complaint on December 10, 2018 and pursuant to statute interventions are due no later than January 9, 2019.
3. As with Complainant, DMEA, each of the Colorado Cooperative Movants listed above voted to exempt themselves from regulation from Commission rate jurisdiction pursuant to Title 40, Article 9.5, Part 1, of the Colorado Revised Statutes. For the New Mexico and Wyoming Cooperatives listed above which are not regulated in Colorado, a decision by the Colorado PUC to regulate a critical matter

such as an exit fee for one of the members would in effect pull all the members of Tri-State under Colorado PUC jurisdiction.

4. As with Complainant, DMEA, each of the Joint Cooperative Movants purchases services from Tri-State under a Wholesale Electric Services Contract (WESC) that may be affected by the outcome of this proceeding. In other words, each of the Joint Cooperative Movants and DMEA, share the same contractual relationship with Tri-State.
5. Therefore, each of the Joint Cooperative Movants should be allowed to intervene as the subject proceeding could substantially affect the pecuniary interests of each of the Joint Cooperative Movants' own members (rural electric consumers).
6. To wit, any decision by the commission to establish an exit fee for DMEA that is less than the amount determined by Tri-State's Board will likely be passed on by Tri-State to Tri-State's member systems through increased electrical rates.
7. There is a probability that such increased rates will ultimately be borne by each of the Joint Cooperative Movants' own members. Said consumer members require the Joint Cooperative Movants' intervention as they (rural electric consumers) would not have the knowledge or ability to have their interests addressed in this proceeding otherwise.
8. Further, the withdrawing payment at this issue stems from Tri-State's bylaws. DMEA, and all of Tri-state's other member systems voluntarily contracted to be bound by Tri-State's bylaws. Having all the contracting members being bound by Tri-State's bylaw was part of the benefit of the bargain to each of the Joint Cooperative

Movants. The relief that DMEA seeks from the Commission would deprive each of the Joint Cooperative Movants their benefit of the bargain

9. The Joint Cooperative Movants, by this submission do not seek to deprive DMEA's right to its day in court. To the contrary, each of the Joint Cooperative Movants assert that DMEA should resolve its contractual dispute with Tri-State in a court of law.
10. The joint Cooperative Movants' interests will not be adequately represented in this proceeding if they are not granted intervenor status.
11. Participation by the Joint Cooperative Movants will not broaden the issues in this proceeding as they are limited by the contracts between the parties.
12. The nature and quantity of any evidence to be presented beyond the contract with Tri-State is not yet known. Each of the Joint Cooperative Movants reserve the right to participate as their interests may appear while generally, Movants intend to submit pleadings and other filings jointly.
13. Intervention is timely.
14. Upon inquiry, Tri-State does not oppose intervention by the Joint Cooperative movants. Complainant, DMEA, takes no position at this time on the issue of Movant's intervention and reserves its right to respond.
15. Each of the Joint Cooperative Movants respectfully request that they be granted intervenor status in this proceeding.

16. The Joint Cooperative Movants request that notice of matters relating to this proceeding and copies of orders, testimony, exhibits and all pleadings, discovery and other communications be served upon:

James R. Gerler, CO#8293  
Petersen & Fonda  
215 West Second Street  
Pueblo, CO 81003-3251  
[jgerler@petersen-fonda.com](mailto:jgerler@petersen-fonda.com)

WHEREFORE, the Movants respectfully request that the Commission issue an Order granting it leave to intervene in the above-captioned proceeding.

Respectfully submitted this 11<sup>th</sup> day of January 2019.

By: James R. Gerler, CO8293  
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**ATTORNEYS FOR MOVANTS**

#### **CERTIFICATION OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of January 2019, a copy of the foregoing **Petition for Leave to Intervene** was file with the Colorado Public Utilities Commission via e-file and a copy was served via e-mail to the following:

Doug Dean  
Cindy Schonhaut  
Tom Dixon  
Ken Reif

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